IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 3250 OF 1991

Central Bank of India. ... Plaintiff.

V/s.

Mr. Rameshshankar Pednekar & 2 Ors. ... Defendants.

Mr. O.A. Das for the Plaintiff.
None for the Defendants.

CORAM : DR. D.Y. CHANDRACHUD,J.

1ST AUGUST 2007.

P.C. :-

. The Plaintiff has sued for the recovery of an amount of Rs.65,376.80 together with interest on the principal sum of Rs.25,000/- at the rate of 14% per annum. The claim in the suit is on account of monies lent and advanced.

2. In pursuance of an application made by the First Defendant in April, May and June 1994, the Plaintiff sanctioned and disbursed a term loan of Rs.25,000/-. An agreement dated 27th April 1984 was entered into which was renewed on 27th October 1988. By the

agreement, the First Defendant also hypothecated moveable properties in favour of the Plaintiff. The outstandings were to carry interest at the rate of 14% per annum. The Second and Third Defendants executed a deed of guarantee on 27th April 1984 in favour of the Plaintiff. Apart from an amount of Rs.1,500/-, the outstanding loan instalments were not paid. On behalf of the Plaintiff a notice of demand were addressed to the First Defendant on 14th December 1987 and to the Second and the Third Defendants on 14th December 1987 calling for repayment.

3. The Plaintiff has sought the permission of the Court to lead secondary evidence on the ground that despite diligent search the originals are not traceable. An affidavit has been filed for the said purpose by Shri Pramod Sharma, Senior Manager of the Byculla Branch. It has been stated therein that the then Chief Manager Shri Vijay G. Gharat, who was working with the Byculla Branch at the time of the institution of the suit had made photocopies from the originals. Permission is accordingly granted to the Plaintiff to lead secondary evidence.

4. In support of the claim the Plaintiff has relied upon an affidavit of Shri Pramod Sharma, Senior Manager dated 1st August 2007. The claim has been duly proved on the basis of the original and documentary material on the record. The Plaintiff has advanced a term loan of Rs.25,000/- to the First Defendant which was to carry interest at the rate of 14% per annum. The Second and the Third Defendants have duly executed deeds of guarantee. A Statement of Account, duly certified under the Bankers Books Evidence Act, 1891 has been annexed to the compilation of documents. The Defendants have not filed a written statement despite service of the writ of summons. For the aforesaid reasons, the claim in the suit is duly proved.

5. The suit shall accordingly stand decreed in terms of prayer clauses (a) to (c).

6. Refund of Court fees if any, as per rules.